

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TRAVELERS CASUALTY AND SURETY COMPANY as  
Administrator for RELIANCE INSURANCE  
COMPANY,

Plaintiffs,

Case  
(DLC)

No.: 07-cv-6915

-against-

DORMITORY AUTHORITY - STATE OF NEW YORK,  
TDX CONSTRUCTION CORP. and KOHN PEDERSON  
FOX ASSOCIATES, P.C.,

Defendants.

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DORMITORY AUTHORITY OF THE STATE OF NEW  
YORK and TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

-against-

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

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TRATAROS CONSTRUCTION, INC. and TRAVELERS  
CASUALTY AND SURETY COMPANY,

Fourth-Party Plaintiffs,

-against-

CAROLINA CASUALTY INSURANCE COMPANY;  
BARTEC INDUSTRIES, INC.; DAYTON SUPERIOR  
SPECIALTY CHEMICAL CORP. a/k/a DAYTON  
SUPERIOR CORPORATION; SPECIALTY  
CONSTRUCTION BRANDS, INC. t/a TEC; KEMPER  
CASUALTY INSURANCE COMPANY d/b/a KEMPER  
INSURANCE COMPANY; GREAT AMERICAN  
INSURANCE COMPANY; NATIONAL UNION FIRE  
INSURANCE COMPANY OF PITTSBURGH, P.S.;  
UNITED STATES FIRE INSURANCE COMPANY;  
NORTH AMERICAN INSURANCE COMPANY; ALLIED  
WORLD ASSURANCE COMPANY (U.S.) F/k/a  
COMMERICAL UNDERWRITERS INSURANCE

COMPANY; ZURICH AMERICAN INSURANCE  
COMPANY d/b/a ZURICH INSURANCE COMPANY  
d/b/a OHIO CASUALTY GROUP; HARLEYSVILLE  
MUTUAL INSURANCE COMPANY (a/k/a  
HARLEYVILLE INSURANCE COMPANY); JOHN DOES  
1-20 and XYZ CORPS. 1-19 ,

Fourth-Party Defendants.

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DECLARATION OF JOEL M. SIMON IN SUPPORT OF THE MOTION FOR SUMMARY  
JUDGMENT ON BEHALF OF ALLIED WORLD ASSURANCE COMPANY (US) F/K/A  
COMMERCIAL UNDERWRITERS INSURANCE COMPANY AND NORTH AMERICAN  
SPECIALTY INSURANCE COMPANY PURSUANT TO FEDERAL CIVIL PROCEDURE R.  
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I, JOEL M. SIMON, declares as follows:

1. I am a member of the law firm of Smith Mazure Director  
Wilkins Young & Yagerman, P.C., attorneys for fourth-party  
defendants ALLIED WORLD ASSURANCE COMPANY (US) F/K/A COMMERCIAL  
UNDERWRITERS INSURANCE COMPANY (ALLIED WORLD) AND NORTH AMERICAN  
SPECIALTY INSURANCE COMPANY (NAS). I submit this declaration in  
support of fourth party defendants, Allied World and NAS' motion  
For Summary Judgment pursuant to Federal Civil Procedures Rule 56,  
dismissing the fourth-party complaint of Trataros Construction,  
Inc. ("Trataros") and Travelers Casualty & Surety Company  
("Travelers") and any and all cross-claims that may exist.

2. A true and correct copy of the two amended fourth party  
complaints as asserted as against Allied World and NAS are annexed  
hereto as Exhibits "A" and "B" respectively.

3. A true and correct copy of the Answers of Allied World  
and NAS and filed in this action is annexed hereto as Exhibit "C".

4. A true and correct copy of the letter dated March 7, 2003 from TDX Construction Corp. ("TDX") to Trataros containing an expert report revealing the extensive debonding of the terrazzo system is annexed as Exhibit "D".

5. A true and correct of the letter dated June 17, 2003 from TDX to DASNY regarding investigation and analysis performed by three different firms with respect to the alleged failure of the terrazzo system is annexed hereto as Exhibit "E".

6. A true and correct copy of the letter dated on August 28, 2003 from TDX to TRATAROS noting the conditions due to the deficiencies in the terrazzo floor and underlayment installation at Baruch College is annexed as Exhibit "F".

7. A true and correct copy of the policy of insurance issued by Commercial Underwriters Insurance Company is annexed hereto as Exhibit "G".

8. A true and correct copy of the Affidavit of Anita Thibadeau is annexed hereto as Exhibit "H".

9. A true and correct copy of the letter from NAS Insurance Group dated July 29, 2005 disclaiming coverage is annexed hereto as Exhibit "I".

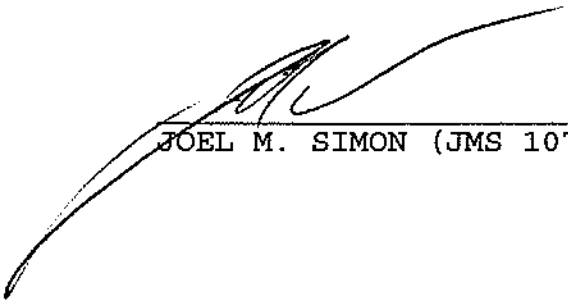
10. A true and complete copy of the Decision of this Honorable Court dated June 25, 2008 which granted summary judgment to fourth party defendant United States Fire Insurance Company is annexed hereto as Exhibit "J".

11. A true and complete copy of the Third-Party Action commenced as against Trataros and Travelers dated on or about August 4, 2004 is annexed hereto as Exhibit "K".

12. A true and complete copy of the February 17, 2005 Fourth-Party Complaint (First asserted as against Allied World) is annexed hereto as Exhibit "L".

13. A true and complete copy of the initial Complaint commencing this action is annexed hereto as Exhibit "M".

Dated: New York, New York  
August 4, 2008



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JOEL M. SIMON (JMS 1077)